



THE SUPREME COURT OF APPEAL
OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE
SUPREME COURT OF APPEAL

28 September 2011

STATUS: Immediate

M W LYNN & ANOTHER v COREEJES (687/10)

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal

The Supreme Court of Appeal (SCA) today upheld an appeal against a judgment and order of the North Gauteng High Court, Pretoria in the above matter.

The high court had upheld an objection in limine and granted an application to strike the appellants' claim in terms of Rule 30A. The high court held that, where two of three liquidators had authorised the institution of an action, it was a nullity incapable of ratification, since s 382(1) of the Companies Act 61 of 1973 required that liquidators act jointly. The SCA held that the high court had erred in this regard. Section 382(1) does not contain a general prohibition and is not analogous with s 6(1) of the Trust Property Control Act 57 of 1988. Actions in terms of s 382(1) are prohibited only in the absence of consent of all liquidators; such consent can be granted *ex post facto* through subsequent ratification. The high court should therefore have dismissed the application to strike out the appellants' claim.

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